

### **III. REMARKS**

The Final Office Action dated 21 March 2011 has been carefully considered. Applicant appreciates the Examiner's courtesy in discussing the application on 15 June 2011. Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

#### **Status of the Claims**

Claims 37 and 49 are amended. No claims are cancelled at this time. Claims 37-60 remain pending in this application.

#### **Claim Rejections – 35 U.S.C. §101**

Claims 37-48 are rejected under 35 USC §101 as being directed to non-statutory subject matter. Claim 37 is amended to address the rejection.

#### **Claim Rejections – 35 U.S.C. §102**

Claims 37, 38, 40, 42-49, 51 and 53-60 are rejected under 35 U.S.C. §102 (e) as being anticipated by US Patent Publication No. 2005/0288154 (*Lee*).

Claim 37 is amended to recite that the previously recorded measurement data comprises a plurality of “consecutive” measurement point sets on a route, each set including a heart rate measurement, a time stamp, a GPS position measurement and an altitude measurement. It is submitted that these features are not disclosed or suggested by *Lee*.

Applicant's claimed subject matter allows a user of the measurement device to obtain accurate feedback related to performance along the route of an ongoing activity, or route-dependent comparative data and feedback. By loading “previously recorded measurement data” related to an activity and comparing the previously recorded data to the new data from the current ongoing activity, the performance feedback from the comparison will tell the user precisely where they are relative to the prior performance along the same route. By including heart rate measurement, a time stamp, GPS position measurement and an altitude measurement in the set of consecutive measurement points, Applicant's claimed subject matter advantageously provides route-dependent comparative data and not merely time or

distance comparative data. This is not disclosed or suggested by *Lee* or the systems of the prior art.

Although *Lee* discloses that the personal training device uses GPS, *Lee* only discloses that the GPS is used to determine a current location, an elapsed distance or time. *Lee* also discloses that the GPS location data can be used to navigate back to a stored point. (Para. 0064). This is not the same as “previously recorded measurement data” comprising a plurality of “consecutive” measurement point sets on a route, each set including a heart rate measurement, a time stamp, a GPS position measurement and an altitude measurement as recited in Applicant’s claims. Paragraph 0014 of *Lee* only states that the GPS component provides “location” information. The processor 60 in *Lee* can calculate a location by using the location data from the GPS component. (Para. 0051). This “location” data relates to monitoring and reporting the “user’s performance” in terms of elapsed time or distance. The processor can calculate a distance traveled by comparing a “current location” to a “previous location.” (Para. 0051). The GPS component in *Lee* is only used for conventional navigation, and for calculating the traveled distance, a speed and current position of the user. (Para. 0061). *Lee* does not disclose or suggest storing “previously recorded measurement data” comprising a plurality of “consecutive measurement point sets” on a route, each set including “a heart rate measurement, a time stamp, a GPS position measurement and an altitude measurement” in order to provide route-dependent comparative data, as is the case in Applicant’s claimed subject matter.

*Lee* only allows the user to determine if a “performance” goal is met, and cannot provide route-dependent comparative data as is the case in Applicant’s claimed subject matter. *Lee* discloses performance goals such as “striving to reach a time goal or a distance goal while running on a closed track.” (Para. 0052). The “goal information” relates to the current “average speed, maximum speed, distance, or time.” (Para. 0053). The user’s current performance can be monitored and performance characteristics tracked. (Para. 0054). The “performance characteristics” include the user’s location, elevation, distance, elapsed time, speed or calories burned.” (Para. 0051). However, what *Lee* does not disclose is “comparing” previously recorded measurement data comprising a plurality of consecutive measurement point sets on a route, each set including a heart rate measurement, a time stamp, a GPS position measurement and an altitude measurement to measurement data of a current, ongoing activity to provide route-dependent comparative performance data. *Lee* only teaches

comparing the “goal information” with the “performance information” that is based on time and/or distance. (Para. 0055). This comparison does not and cannot provide route-dependent comparative performance data as is the case with Applicant’s claimed subject matter.

Thus, claim 37 is not anticipated by *Lee*. Claim 49 recites similar limitations and is also not anticipated by *Lee*.

Dependent Claims 38-48 and 50-60 should also be allowable at least by reason of their respective dependencies and the additional limitations recited therein.

Therefore, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants’ attorney at the telephone number indicated below as well as by electronic mail, authorization for which is provided below.

Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail at the email address listed below. I understand that a copy of these communications will be made of record in the application file.

The Commissioner is hereby authorized to charge any necessary fees or credit any overpayment associated with this submission to Deposit Account No. 50-5215.

Respectfully submitted,

/gcz44004/  
Geza C. Ziegler, Jr.  
Reg. No. 44,004

21 June 2011  
Date

Ziegler IP Law Group, LLC  
518 Riverside Avenue, Synergy Building  
Westport, CT 06880

Tel: (203) 659-0388

Customer No. 93582